IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

FRIDAY, THE 23RD NOVEMBER 2007 / 2ND AGRAHAYANA 1929

W.P(C).No. 34118 of 2007(J)

PETITIONER:

V.BALU GEORGE, PROPRIETOR,
M/S.VALLUVASSERIL HARDWARES, 28/555,
KADAVANTHRA, COCHIN-20.

BY ADV. SRI.T.V.GEORGE

RESPONDENTS:
----

1. **THE COMMERCIAL TAX INSPECTOR,**
   COMMERCIAL TAX CHECK POST, WALAYAR.
2. **THE COMMERCIAL TAX OFFICER,**
   COMMERCIAL TAX CHECK POST, WALAYAR.
3. **THE INSPECTING ASSISTANT COMMISSIONER,**
   COMMERCIAL TAX CHECK POST, WALAYAR.
4. **GOVERNMENT OF KERALA, REPRESENTED**
   BY THE COMMISSIONER OF COMMERCIAL TAXES,
   THIRUVANANTHAPURAM.

BY GOVT. PLEADER, SRI.GOVINDAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 21/11/2007, THE COURT ON 23/11/2007 DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J.

= = = = = = = = = = = = = = = = = =
W.P.(C) No. 34118 OF 2007 J
= = = = = = = = = = = = = = = = = =

Dated this the 23rd November, 2007

J U D G M E N T

In view of the detention of certain goods transported for the petitioner by Ext.P3 notice of detention, this writ petition has been filed.

2. The irregularity noticed in Ext.P3 is that the consignee-the petitioner, though a registered dealer, the item transported is not included in the KVAT registration certificate. The certificate of Registration of the petitioner has been produced as Ext.P1. In Ext.P1 certificate of registration itself, among the goods dealt with, painting machines have been incorporated with effect from 12/11/2007. The detention also being on 12/11/2007, it is a matter for enquiry as to whether at the time when the goods were detained, whether certificate of registration covered the painting machines as well.

3. On instructions, yet another irregularity

that was pointed out by the learned Government pleader was that though the goods were described to be sprayer and sprayer machine, goods in fact were not painting machines. This is sought to be contradicted by the counsel for the petitioner by referring to Ext.P2 invoice of the consignor, and according to the learned counsel, the goods in question are painting machines, which are also incorporated in Ext.P1.

4. Prima facie, this is a matter for enquiry and presently, the only issue is as to whether the goods are liable to be released to the petitioner as is now sought for. Since the petitioner is a registered dealer and that fact is proved as per Ext.P1 certificate of registration, I see no justification in detaining the goods any further.

5. In view of this, I direct that the goods detained as per Ext.P3 be released to the petitioner along with vehicle, on the petitioner executing a bond without sureties. Thereafter adjudication shall be held

and the parties will be governed by the order to be passed.

Writ petition is disposed of.

ANTONY DOMINIC
JUDGE

Rp/-